

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Michael Holden
50 Lincoln Street, Greenfield, MA 01301

Date application filed with the Town Clerk: August 4, 2008

Nature of request: A Special Permit to create a 5-unit Town House under Section 3.322 of the Zoning Bylaw, at 1147 North Pleasant Street (Map 5C, Parcel 35, R-VC Zone)

Address: 1147 North Pleasant Street (Map 5C, Parcel 35, R-VC Zone)

Legal notice: Published on August 27 and September 3, 2008 in the Daily Hampshire Gazette and sent to abutters on August 27, 2008.

Board members: Thomas Simpson, Barbara Ford and Albert Woodhull

Submissions: The petitioner submitted the following with the application: a site plan showing landscaping and parking, floor plans of the proposed units and elevations and a Management Plan.

For the October 23, 2008, Public Hearing, the applicant submitted a letter requesting withdrawal of the Application dated October 15, 2008.

Town staff submitted the following information:

- A memorandum regarding the application, zoning and dimensional requirements for the subject property;
- A copy of the previous Special Permit ZBA FY2007-00043 containing approved plans;

Site Visit: September 9, 2008

The Board met with the applicant at the property and observed the following:

- A long and narrow lot containing the existing two family residence in a neighborhood of single-family, two family and multi family dwellings;
- A small vacant lot which is to be combined with the existing lot;
- The location of the former barn, demolished in 2007, which is the location of the new addition;
- The existing parking area and turnaround as approved in ZBA FY2007-00043;
- The interior of the existing dwelling units.

Public Hearing: September 11, 2008

The petitioner, Michael Holden, presented his application to the Board. He stated the following:

- He has been the owner of the property for approximately 2 years;
- In 2007 he appeared before the Board for approval of a two-family dwelling;
- He received an emergency demolition permit for the barn in 2007;

- He has changed the nature of his request to reduce the number of proposed units from 3 to 2 new units;
- He is proposing a Town House because the design of the addition did not meet the Zoning Bylaw requirements for apartments;
- He reviewed enlarged copies of the proposed elevations, including the west elevation visible from North Pleasant Street;
- He described the layout and design of the proposed units, location of doors and windows and reviewed the proposed parking arrangement.
- He is asking for 14 parking spaces which includes additional spaces for visitors; it is his experience that if the spaces are not provided, people will not park in an orderly fashion;
- He described the proposed units as high quality rental units and does not intend to create “student housing” and noted the demand from young professionals;
- He chose to purchase the property because of the high quality of the neighborhood and that he has already made significant improvements to the property;
- The footprint of the new structure is somewhat larger than the former barn; there is no requirement for the footprint to be the same as that of the original barn;
- He designed the new structure to mimic the historical design of the former barn;
- The height of the existing house is approximately 27 feet; the new barn would be approximately 30 feet and would not be substantial higher than the house;
- A letter of support for the project was submitted from Frank Wojtkielewicz owner of 1139 North Pleasant Street, next door to the south of his property.

Mr. Simpson stated that the property does not meet the minimum frontage and that Section 3.322 requires that all dimensional regulations of Article 6 must be met. Mr. Holden responded that he understood that the frontage was not an issue.

David Waskiewicz, Building Inspector, noted that the proposed construction would be required to be sprinkled. Mr. Holden confirmed that it would be sprinkled.

Ms. Ford asked the applicant who owned the vacant parcel at the rear of the property and whether the proposed parking would be on that property. Mr. Holden explained that he owns the property and that he has combined the property with the Town Assessor’s office and intends to formally combine the parcel with the Registry of Deeds. He indicated that only a small portion of the parking would be on the back lot.

Mr. Woodhull asked about the breezeway connecting the proposed addition to the existing building and noted that it did not provide access to each building. Mr. Holden noted that the breezeway was not required to provide formal access. Mr. Waskawicz confirmed that the breezeway was adequate.

The Board asked for input from members of the public.

Louise Levine, 1113 North Pleasant Street, read a prepared statement to the Board stating objection to the project. The letter was submitted to the Board for the record. Ms. Lavine said that she felt the project did not meet Section 10.38 of the Zoning Bylaw because it is not in harmony with the use, scale and architecture of the neighborhood.

Derek Shea, 31 Harris Street, stated that he has lived in Amherst for 8 years and has two children. Mr. Shea indicated that he is an abutter to the rear portion of the property. He said that he was aware of the zoning of the area and potential for more residential uses. He applauded the applicant’s proposal but expressed concern that the parking at the rear of the parcel is close to where his children play.

John Fanton, 37 Harris Street, stated that his property is directly adjacent to the rear of the vacant parcel. He stated that his only concern is related to the noise and disturbance created from the parking on the rear lot.

Richard Gold, 55 Sand Hill Road, stated that he owns a property on Meadow Street and expressed concern regarding the neighborhood comments being made of “student housing”.

Don Lesser, 1164 North Pleasant Street, stated that he is pleased with the work done by the applicant to the house and property. He noted concern related to the effect of non-owner occupied housing and the encroachment of student housing on the quality and character of the neighborhood. He stated that he believes there are wetlands on the vacant parcel and requested that the application be reviewed by the Conservation Commission, Fire Chief and Historical Commission.

Dan Burbine, 1178 and 1184 North Pleasant Street, stated that he resides at 1184 North Pleasant Street. He said that he owns a bed and breakfast with an apartment for a night manager. In order to get approval for the B & B, he could not have a separate kitchen and he had to live on the property. He stated that he is pleased with the work the applicant has done to date, but is concerned about the effect on the neighborhood of the proposal.

Wesley Parker, 1146 North Pleasant Street, stated that he was approved for a second dwelling unit on his property and was required to maintain owner occupancy. He expressed concern related to additional non-owner occupied dwellings and the potential change to the character of the neighborhood. He expressed concerns related to excessive parking of cars on adjacent properties that are not owner-occupied. He stated that he is pleased with the work the applicant has done to date.

Nancy Palmgren, 50 Meadow Street – Town House Meadow’s Condominiums, stated that she has lived in Amherst for 20 years and noted that non-owner occupied dwellings would lead to future misuse of the property and are difficult to control.

Ms. Valerio, 1157 North Pleasant Street, noted that she lives at the property immediately to the north of the subject property. She expressed concern regarding the design and location of windows proposed that face directly into their home and property and would cause a loss of privacy. She expressed concern about headlights and noise associated with cars parking next door. Ms. Valerio stated that she and her husband were required to maintain owner occupancy in order to add an additional unit to their house.

Greg Keochakian, 1165 North Pleasant Street – The Fisher House, expressed concern related to the effect on the quality of patient care, peace and tranquility in the area. Mr. Keochakian stated that he has an agreement with the Valerio’s to allow the vacant portion of their parcel to be used by patients and is worried about the potential disturbance of the driveway and new parking area. Mr. Keochakian also was concerned about the effect on wildlife that lives in the vacant parcel.

Ed Valerio, 1157 North Pleasant Street, stated that he owns the property immediately to the north of the subject property. Mr. Valerio stated the following:

- The project will negatively affect the quality of life in the neighborhood and decrease property values;
- They were required to maintain owner occupancy in order to add an additional unit on their property;
- He owns a multi-unit house on Main Street and that it is his experience that it is difficult to control noise and complaints, even with a management company;
- It is difficult to get graduate students as tenants and that the applicant would likely rent to students

- rather than leaving the units empty;
- He's concerned about the size of the structure compared to the former barn and the location of proposed windows;
- Approval of the project would set a negative precedent for the neighborhood and encourage similar development and threaten the future quality of the neighborhood.

The applicant responded with the following statements:

- The condition of the former barn was such that it could not be converted to living space;
- He was not required to maintain the footprint of the former barn;
- Each of the proposed units will be approximately 960 sq. ft., contain two bedrooms and have laundry facilities available;
- As the landlord, he would be available to address any concerns of the tenants and neighbors;
- He appreciates the compliments on his work to date; that is what inspired him to propose the addition;
- His screening process for tenants is rigorous; he showed the Board an email response containing a description of the property as being a quiet, small residential neighborhood and that he maintains a strong presence on the property by visiting the site frequently;
- Currently, he has a woman with two children renting one of the two existing units;
- He has provided his neighbors with his telephone number and has never received any complaints;
- He has no problems with the use of the vacant portion of his property and would consider putting up a fence at the edge of the proposed parking area;
- He would provide screening from the neighboring property by others and is willing to discuss this with neighbors and the Board;
- He is proposing additional parking for use by visitors and to avoid random parking or blocking of other cars;
- He is not aware of any wetlands on the site, but the structure would be almost 200 feet from the vacant parcel;
- He would present the project to the Historical Commission, if asked by the Board;

Ms. Ford noted that the property is in the Village Center Residential (R-VC) and that its purpose is to allow for appropriately designed development with greater residential densities. Staff indicated that the area was re-zoned to R-VC by Town Meeting in 1990.

Mr. Woodhull noted that during the previous public hearing to convert the residence to a two-family, the question was asked regarding what would be put in place of the former barn. Mr. Woodhull read from the decision that the applicant intended to keep the area grass.

Mr. Woodhull said that he felt the hearing should be continued.

Ms. Ford agreed and requested a revised site plan showing the parking relative to the lot lines and additional landscaping plans.

Mr. Simpson stated that he had grave concern regarding the nature of the request and that it could be the "camel's nose under the tent". He explained that he felt the proposed density of the project would alter the character of the neighborhood and that it does not fit in with the existing residential uses. He took issue with the non owner-occupied dwelling and that the property does not meet the dimensional requirements of Article 6 due to non-conforming lot frontage. He stated that he could not support the application as presented.

Mr. Holden discussed a map he prepared showing the neighborhood and explained that his research, based on the Town GIS, stated the following:

- There are 13 owner occupied and 16 non-owner occupied units in the area;
- The proposal fits well with the make up of the neighborhood and the R-VC Zoning District;
- The building used to contain two dwelling units and a doctor's office;
- The addition to the house would be an improvement to the neighborhood and would provide valuable residential units;
- He has a vested interest in the character of the neighborhood and has already put a lot of time and money into the property;
- He is willing to discuss options and changes with neighbors and the Board in order to reach a consensus.

Mr. Simpson stated that he remains concerned because the dwelling will not be owner-occupied. Mr. Holden responded to indicate that his primary residence is in Greenfield, but he would designate a tenant to be an on-site manager.

Mr. Woodhull indicated to the applicant that he may have incorrectly judged the character of the neighborhood and perhaps should redesign to include only one new unit. He should also address the parking and other concerns of the neighbors.

The Board discussed the fact that a condition requiring an on-site manager is sometimes requested to be removed; the concern is related to the future use of the property if/when the applicant sells the property. However, the Town needs to be involved in the control and enforcement of the use.

Mr. Simpson stated that he was prepared to vote to deny the application.

Mr. Woodhull and Ms. Ford indicated they would be in favor of continuing the hearing in order to see whether the applicant could incorporate neighbors' concerns or would consider a different design.

The applicant asked about his options at this point. The Board explained to the applicant that there is an option to withdraw the application without prejudice or the permit could be denied, which would require a two year waiting period to re-apply.

Mr. Simpson moved to continue the public hearing to October 23rd at 7:30 PM. Ms. Ford seconded the motion, and the Board voted unanimously to continue the public hearing to October 23, 2008 at 7:30 PM.

Public Hearing (Continued): October 23, 2008

Mr. Simpson stated for the record that the Board had received a letter from Mr. Holden, dated October 15, 2008, requesting a withdrawal of his application. The letter indicated that Mr. Holden would like to develop an improved plan that would better satisfy the concerns of the neighborhood and the Zoning Board of Appeals.

Ms. Ford confirmed that the request was to withdraw without prejudice. The Board agreed.

Mr. Woodhull stated that he appreciated the graciousness of Mr. Holden's letter.

Ms. Ford made a motion to close the public hearing, Mr. Woodhull seconded the motion. The Board voted unanimously to close the Public Hearing.

Zoning Board Decision:

Ms. Ford made a motion to APPROVE the applicant's request to withdraw without prejudice the Special Permit application to create a 5-unit Town House. Mr. Woodhull seconded the motion.

The Board VOTED unanimously to APPROVE the request to withdraw without prejudice the Special Permit application as submitted by Michael Holden to create a five (5) unit Town House on the premises of 1147 North Pleasant Street (Map 5C, Parcel 35, R-VC Zone).

THOMAS SIMPSON

BARBARA FORD

ALBERT WOODHULL

FILED THIS _____ day of _____, 2008 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2008.
NOTICE OF DECISION mailed this _____ day of _____, 2008
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2008,
in the Hampshire County Registry of Deeds.